

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Cornelius E. Archibald

Case No. 07-80051

Chapter 13

Soc. Sec. No.: xxx-xx-8600

Address: 915 N. Mangum Street, , Durham, NC
27701

Debtor

AMENDED MOTION FOR AUTHORITY TO MODIFY CURRENT MORTGAGE

NOW COMES the Debtor, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting permission to modify current mortgage, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtor has filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on January 12, 2007.
2. The Debtor is the owner of certain real property (hereinafter referred to as "said property") located in Durham County in the State of North Carolina and more commonly known as 915 N. Mangum Street, Durham NC 27701.
3. The Debtor has already obtained a commitment for the modification, subject to approval by this Court.
4. The following table sets forth the approximate details of the modification:

Item	Amount
Amount being borrowed on new mortgage:	205,378.69
<u>Minus</u> Closing costs:	0.00
<u>Minus</u> Payoff on the current mortgage:	
Monthly Payment Beginning 1/1/2011 to 3/31/2034	1,117.37
Interest Rate on new mortgage:	4.46
Term of new mortgage: Balloon Payment Due	4/1/34

5. The Debtor anticipates having this information by the date of hearing on this Motion, but feared that any delay would scuttle the loan modification.

6. The current monthly mortgage payment is \$1,800.00 .
7. The Debtor has already obtained a commitment for the modification. The projected monthly payment of the new mortgage is projected to be \$ 1,117.37 beginning 1/1/2011.
8. The monthly cost of the new mortgage will be less than the monthly cost of the current mortgage.
9. In addition to lowering his monthly mortgage payment, the Debtor wishes to finalize the modification for the following reasons:
 - a. To avail himself of a lower rate of interest on his real property
 - b. To get away from the current variable rate mortgage, and the inherent risk that the interest rate will, at some time in the future, increase to the point where the monthly mortgage payment is more than the Debtor can afford.
10. It is therefore in the best interest of the bankruptcy estate to allow the Debtor to modify current mortgage.
11. Additionally, the Debtor request a waiver of three (3) plan payments, in order the he can pay the modified mortgage directly during the trial period.
12. That \$350.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtor concerning the proposed mortgage modification, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, interfacing with mortgage brokers and the closing attorney for the purpose of answering questions and concerns regarding the effect of the bankruptcy on the re-financing, extra follow-up to make sure that the ensuing order is obtained and transmitted to the closing attorney in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details.

WHEREFORE, the Debtor respectfully prays that the Court allow the said re-financing of the subject real property, approve and direct payment out of the proceeds of such re-financing a reasonable attorney fee or, in the event that the re-financing falls through or falls short, allow payment of the attorney fee through the Debtor's Chapter 13 plan, and grant such other and further relief as to this Court seems just and proper.

Dated: December 21, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Edward Boltz

Edward Boltz
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Carolina 27701

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CERTIFICATE OF SERVICE

I, Renee Nolte, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on December 21, 2010, I served copies of the **Amended Motion for Authority to MODIFY CURRENT MORTGAGE**, by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II
Chapter 13 Trustee
Post Office Box 3613
Durham, NC 27702

Kimberly Sheek
10130 Perimeter Parkway
Suite 400
Charlotte, NC 28216

Michael West
Bankruptcy Administrator
Post Office Box 1828
Greensboro, NC 27402

Ocwen Loan Servicing LLC
1661 Worthington Road
West Palm Beach, FL 33416-

Cornelius E. Archibald
915 N. Mangum Street
Durham, North Carolina 27701

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

/s/ Renee Nolte

Renee Nolte